

MINUTES
REGULAR CITY COUNCIL MEETING
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
MARCH 17, 2010
5:30 p.m.

CALL TO ORDER

Mayor Krieger called the City Council meeting to order.

INVOCATION/PLEDGE

Pastor Glenn Connell, Valley Baptist Church, gave the invocation. **Councilmember Brooks-Gurrola** led the City Council in the pledge of allegiance.

ROLL CALL

Councilmembers Present: Stuart, Mendoza, Beeson, McClendon, Brooks-Gurrola, Johnson and Mayor Krieger
Councilmembers Absent: none
Staffmembers Present: City Administrator, Mark Watson
City Attorney, Steve Moore
Purchasing & Contracts Manager, Bill Pfannenstiel
City Engineer, Paul Brooberg
C.I.P Project Manager, Jay Simonton
Various Department Heads or their representative
City Clerk, Brigitta M. Kuiper

FINAL CALL

Mayor Krieger made a final call for the submission of Speaker Request Forms from members of the audience.

PRESENTATIONS - none

I. CALL TO THE PUBLIC

Carolyn Bennett, 254 S. Main Street, representing the Yuma Fine Arts Association, briefed City Council on the efforts of the association and urged City Council to continue its contributions.

Bill Butler, 577 9th Avenue, member of the Yuma Film Commission Board, stated the commission is very active in promoting the Yuma area through their services and asked City Council to continue its financial support.

Kay Macuil, 201 S. First Avenue, managing Attorney of the Yuma Community Legal Services office, explained that as a non-profit law firm for the community of Yuma it is critical to maintain their funding through all outside sources. She encouraged City Council to consider the work Community Legal Services does when voting on the continuation of funding.

Shereen Kahn-Guinn, 560 E. Palo Verde, retracted statements made by her husband, Jack Guinn, at a previous City Council meeting. She stated the documents provided to her by the City are fraudulent and she has requested an investigation by sources outside of the State of Arizona.

Jack Kretzer, 761 W. Queens, expressed his surprise at the length of time given to furloughs and the \$5 waste fee which were spoke of at the Special City Council Meeting. If a fee is to be set up, why isn't the solid waste account an enterprise account? He suggested the fee be set at the true cost in lieu of an estimate and a flat rate salary cut, including Public Safety and elected officials, be utilized in lieu of furloughs.

Watson clarified that the sanitation account is set up as an enterprise account; currently, there is a \$1 million subsidy from the General Fund.

II. MOTION CONSENT AGENDA

Motion (Johnson/McClendon): To adopt the Motion Consent Agenda as recommended with the exception of items B3 which was removed by McClendon, B4 which was removed by Beeson, B5 and B6 which were removed by Mayor Krieger. Voice vote: **approved** 7-0.

A. Approval of minutes of the following City Council meetings:

Regular Worksession	December 1, 2009
Regular Worksession	February 2, 2010

B. Approval of Staff Recommendations:

1. Executive Sessions may be held at the next regularly scheduled Special Worksession, Regular Worksession and City Council Meeting for personnel, legal, litigation and real estate matters pursuant to A.R.S. § 38-431.03 Section A (1), (3), (4), and (7). (Attny)
2. Approve a Special Event Liquor License application submitted by Herlinda Hassell-Wilson, on behalf of the Yuma Sunrise Rotary Club, for a Beer and Salsa Tasting event. The event will be held at the Arizona Historical Society/Sanguinetti House Museum, 240 S. Madison Avenue, April 9, 2010, from 6:00 p.m. to 10:00 p.m. (SP10-05) (Admin/Clerk)
3. Removed for separate consideration; see below.
4. Removed for separate consideration; see below.
5. Removed for separate consideration; see below.
6. Removed for separate consideration; see below.
7. Amendment to Contract No. 4-07-30-W0055 for delivery of Colorado River Water to Agua Viva Water Plant. (Gila Project Water Plant) (Utilities/Admin)

8. Authorize settlement of the Sylvestri v. City of Yuma claim concerning a traffic accident between a City of Yuma sanitation truck and Ms. Sylvestri. (Attny)
9. Heritage Library Park Sculpture Approve accession of Mexican Hero sculpture for Heritage Library Park. (Admin)

Motion Consent Agenda Items Removed for Separate Consideration

- B.3 Approve a Special Event Liquor License application submitted by Adam Rodriguez, on behalf of the Yuma County Board of Supervisors, for the annual Yuma County Employee BBQ. The event will be held at the Yuma Catholic High School athletic field, 2100 W. 28th Street, Saturday, April 17, 2010, from noon to 11:00 p.m. (SP10-06) (Admin/Clerk)

McClendon stated her reason for removing item B3 is because she does not agree with alcohol being served on school grounds.

Mayor Krieger inquired about the process of recommending disapproval of a liquor license. **Kuiper** explained that there are different processes between the recommending disapproval of Special Event liquor licenses versus a regular liquor licenses. When a local governing body recommends denial for a special event, the state will not override the City's decision and will not grant the license. When a local governing body recommends disapproval of a regular liquor license, the applicant has the opportunity to an appeal process at the state level. The City Clerk notifies the applicant and agent of the recommendation, and forwards the paperwork to the Arizona Department of Liquor Licenses and Control. The State notifies the applicant and the City via the City Clerk's Office of the hearing dates allowing for representation of both sides, should they chose to do so.

Mayor Krieger asked who the City Clerk then notifies. **Moore** explained that a previous City Council adopted a policy stating in the event of a recommendation of disapproval a Councilmember would represent the City at a hearing to explain the City Council's position. When the City Clerk is notified of a hearing, she then will advise the City Administrator and the City Council of those dates. **Mayor Krieger** stated that the process in places may not have a solid foundation for notifying City Council which is an area of concern.

Watson stated that the City Clerk's office can establish an internal procedure in which every City Councilmember would be notified. The City Clerk would ask the City Council to advise her office of attendance plans. Each Councilmember is free to express their opinion regardless how they voted.

Stuart asked if the City Council has ever declined a Special Event Liquor License application for the Yuma County Employees BBQ. **Kuiper**: No.

Johnson asked why the City Councilmembers, and not the City Attorney, are expected to represent the City when a liquor license has been recommended for disapproval. **Mayor Krieger** explained that the City Attorney is under the direct supervision of the City Administrator; however, if the City Council desires to have the City Attorney represent the City there shouldn't be any problems.

Watson stated that in looking at the Special Event Liquor License for the Yuma County Employees BBQ, staff has no objections and recommends approval; however, if the City Council does not approve the application, a decision can be made as to whether or not representation at the state level is needed.

Motion (Stuart/Mendoza): To approve the Special Event Liquor License application submitted on behalf of the Yuma County Board of Supervisors.

Mayor Krieger stated it is inappropriate to serve alcohol at a high school; it sends the wrong message.

Mendoza stated the school is not a public school, it is private, and the rules apply different.

Roll call vote: **approved** 4-3; McClendon, Brooks-Gurrola and Mayor Krieger voting Nay.

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- B.4 Authorize staff to negotiate and execute a one-year contract with the option to renew for four additional one-year periods, one year at a time, depending on the appropriation of funds and satisfactory performance, for Professional Property and Right-of-Way Acquisition Services on a Delivery Order Basis with the following firm: Tierra Right of Way Services Ltd., Tucson, Arizona. (RFQ 2010000172) (Eng)

Beeson asked if any Yuma companies are capable of providing the service. **Pfannenstiel** stated there may be; however, no responses were received from Yuma area companies.

Motion (Mendoza/McClendon): To approve item B4, Contract Award Professional Property and Right-of-Way Acquisition Services on a Delivery Order Basis. Voice vote: **approved** 7-0.

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- B.5 Authorize the City Administrator to execute an agreement with Arizona State Parks to lease, manage, and operate the Yuma Territorial Prison State Historic Park. (Admin/YCNH Area)

Motion (Johnson/McClendon): To amend Exhibit A of the Intergovernmental Agreement with Arizona State Parks Board, by substituting the following language for Section 23.2:

23.2 Immigration Compliance. All Parties shall comply with all applicable federal immigration laws and regulations of the Governor's Executive Order 2005-30. Voice vote: **approved** 7-0.

Motion (Johnson/Mendoza): To approve the Intergovernmental Agreement with Arizona State Parks Board, as amended. Voice vote: **approved** 7-0.

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- B.6 Authorize the City Administrator to execute an Agreement to convey to the Yuma Crossing National Heritage Area the responsibility for operations of the Yuma Territorial Prison State Historic Park, without City funding, and to provide performance standards for the Yuma Crossing National Heritage Area Corporation. (Admin/YCNHA)

Motion (Johnson/McClendon): To amend Exhibit A of the Agreement with Yuma Crossing National Heritage Area Corporation, the Intergovernmental Agreement with Arizona State Parks Board, Exhibit A, at Section 23.2 by substituting the following language:

23.2 Immigration Compliance. All Parties shall comply with all applicable federal immigration laws and regulations of the Governor's Executive Order 2005-30. Voice vote: **approved** 7-0.

Motion (Johnson/Mendoza): To approve the Agreement with the Yuma Crossing National Heritage Area Corporation, as amended. Voice vote: **approved** 7-0.

III. RESOLUTION CONSENT AGENDA

Motion (Beeson/Mendoza): To approve the Resolution Consent Agenda, with the exception of R2010-10 which was removed by Mayor Krieger for separate consideration.

Kuiper displayed the following titles:

Resolution R2010-09

A resolution of the City Council of the City of Yuma, Arizona, establishing a policy for City Council Meeting Procedures and Public Input Guidelines
(Admin/Clerk)

Resolution R2010-11

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving a Development Agreement with the Bradley Family Trust deferring Citywide Development Fees for Lots 335 and 336 of the Palms RV Resort Subdivision
(Eng)

Resolution R2010-12

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving a Development Agreement permitting deferral of Citywide Development Fees and Water and Sanitary Sewer Capacity Fees for Lot 85 of Tillman Estates – Phases II & III Subdivision
(Applicant: Normar Developments, Inc) (Eng)

Resolution R2010-13

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving a Development Agreement permitting the deferral of Citywide Development Fees and Water and Sanitary Sewer Capacity Fees for two lots in Sierra Montana Unit No. 2 Subdivision
(Applicant: 8E Investments, LLC) (Eng)

Resolution R2010-14

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving a Development Agreement permitting deferral of Citywide Development Fees and Water and Sanitary Sewer Capacity Fees for certain specified lots in Sierra Montana Unit No. 2 Subdivision
(Applicant: Sierra Montana-8E Development, Inc) (Eng)

Roll call vote: **adopted** 7-0.

Resolution Consent Agenda Item Removed for Separate Consideration

Resolution R2010-10: Intent to Form Improvement District No. 69 Authorize the formation of a sanitary sewer improvement district for the Country Estates Unit No. IV subdivision, located on the north side of 12th Street, approximately 950 feet west of Avenue B. (Eng)

Brooberg presented the following:

- Improvement district construction projects are projects requested by the residents and/or property owners of a certain area for a specific action to be taken.
- The residents of the Country Estates Unit No. 4 Subdivision requested sanitary sewer service upon annexation
- Staff prepared an estimate for the property owners to give them an idea of the costs for the improvement.
 - A sanitary sewer system would be constructed from 12th Street into and throughout the subdivision with service lines stubbed out to each property line.
 - The project would also include replacement of the water service lines.
 - The materials originally used to construct the water lines are no longer acceptable, and have begun to fail.
 - The water service lines will not be assessed to the property owners if the district is established.
 - Upon completion of the sanitary sewer system, pavement patching and replacement would be completed; only a portion of which would be assessed to the property owners.
- The costs provided to the property owners included a request for confirmation for the City to proceed with the design for the improvement district.
 - Staff received a majority of approval from the homeowners in the subdivision.
 - Staff proceeded with the design and held two public meetings to present the costs related to the improvement district.
 - Two homeowners were able to attend the meetings.
 - Individual meetings were offered to those who could not attend.
- Staff has completed all the necessary steps leading to a resolution of intent to form the improvement district.
- Upon approval of the resolution, there will be a protest period and a public hearing before the City Council.
 - If the majority of the property owners vote nay, the project will not proceed.
 - If the majority of the property owners vote aye, the district proceeds to the bidding process.
 - Once the bids have been received, the various costs are broken down; only the sanitary sewer costs are assessed to the district.
 - At that time, the property owners have the option of paying the assessment in full, or paying nothing upfront and spreading the payments over the life of the improvement district - typically 15 years.
- To date, there have been no costs assessed to the property owners in Country Estates Unit No. 4, all costs have been paid by the City Engineering Department.

Mayor Krieger asked who initiated the process. **Brooberg** stated that staff received a letter of petition from the homeowners in the subdivision at which time an estimate of cost was put together and sent to the homeowners for confirmation. **Mayor Krieger** stated that in the agreement, there is a section that

states the rights of the homeowners. The adoption of the resolution is the first step in the process, there is still an opportunity to not to proceed with the project. **Brooberg** confirmed, the property owners will have an opportunity to cast their vote.

Johnson stated that the only cost the improvement district would incur would be for the installation of the sewer line and to patchwork to the roads. The City would incur the cost of repaving the streets through the Capital Improvement Program (CIP). **Brooberg** stated the installation of the sanitary sewer line, the base material and asphalt replacement will be assessed against the district; however, the trench line, base material and asphalt for the water service lines will be assessed against an existing CIP.

Johnson stated that staff shows a total construction cost of \$457,793, plus capacity fees. **Simonton** stated only the cost is shown for the sewer work; the street and waterline costs are not shown in the estimate. **Johnson** stated that if the homeowners decide not to proceed with the sewer project, staff would put the water and street projects on hold for an indefinite period of time. **Simonton:** Correct, the waterline project will not be slated for construction if the improvement district is not formed.

Mendoza asked if the subdivision is connected to City water. **Brooberg:** Yes. **Kuiper** distributed the informal petitions to the City Council.

The following spoke in opposition of Resolution R2010-10:

Ralph "Jim" Stewart, 1031 S. Brahma Lane

Randy Hoeft, 2660 W. 10th Place

James M. Dillon, 1110 S. Brahma Lane, letter read by Randy Hoeft

James Peacock, 2723 W. 11th Place

Paul Heebink, 1078 S. Brahma Lane

Christopher and Lisa Marie Stanfield, (2553 S. Olivia) 1158 S. Brahma Lane

Rudy Rodriquez, 1047 S. Brahma Lane

Margarita Mathews, 1063 S. Brahma Lane

Jeri Taylor, 1143 S. Brahma Lane

Ken Hardesty, 1184 S. Brangus Avenue

Kathy Kelley, 2676 W. 10th Place

Susan and Gene Bostic, 1095 S. Brahma Lane

Greg Bowman, 2677 W. 10th Place.

The following spoke in support of R2010-10:

Francis McGuire, 1034 S. Brangus Avenue

Discussion Key Points

- 15 years ago the City of Yuma sought to annex the Country Estate IV
 - Staff canvassed the subdivision door to door pledging the City would make improvements upon annexation
 - Since the annexation, no capital improvements have been made to Country Estates IV by the City
- In 2006, homeowners began circulating a petition requesting the City of Yuma install sewer lines.

- During the circulation of the petition, the homeowners were not advised of any additional costs for the sewer improvements.
- As a result, homeowners signed the petition.
- A letter in opposition along with informal petitions of the homeowners has been submitted to the City Clerk for the City Councils consideration.
 - The petition is comprised of two duplicated pages, front and back, listing the effected property owners and addresses.
 - Of the 50 effected homes: 35 homeowners indicated that their household is opposed to the improvement district; 5 homeowners indicated they are in favor; and 7 are undecided.
 - Two homes are pending foreclosure.
 - There are no duplicate houses on the petition; there is one signature per household.
- The Residents do not want to be forced to incur a 15 year debt – \$18,000 – they can not afford.
- The majority of the homeowners ask the City Council to deny the request to form a sewer improvement district.
- The City has not had the money to properly maintain its arterial streets, much less residential streets.
- Most of the subdivisions built in the county were built with no standards, there is no base material under them
 - Today's standards in the County require six inches of base material.
- If the project is put on hold, it may be years down the road before street work can be done.
 - The residents will have to deal with that fact that the roads may not be fixed; the bottom line is the homeowners can not afford the improvement district.
- The tough financial and economic times includes all people who live in Country Estates Unit IV; many of the homeowners fear they will lose their homes if forced into the project.
- In October 2009, a meeting was held and the contractor made a pitch for what a perfect opportunity this would be given the state of our economy.
 - Contracting bids are coming in very low, oftentimes below cost
 - However, the same gloomy economy has hit everyone.
 - Home values have decreased, prices on goods have skyrocketed and living paycheck to paycheck has become the norm.
 - May people have not received cost of living increases for two years now
- Although 50% of residents signed that petition three years ago, many no longer own a home in the County Estates Subdivision.
- It was stated that the empty residents, or the non-respondent residency, would count as a yes vote.
- Who is obligated to repair/replace the failing waterlines?
- The septic tanks are about 30 years old and on average last between 20-50 years and could be at the point of failure or deterioration which could lead to sewage leakage into the ground water.
- Due to the economic situation, the cost of construction is anticipated to low.
- Understandably, the homeowners can't immediately afford the project but what will happen when a septic tank fails and must be replaced? It will be a costly fix.
- The homeowners believe if the City Council rejects the project, eventually the City will pay the cost of the sewer line replacement.
- If the council approves the resolution and the improvement district is formed, the most anybody would be assessed over 15 years would be approximately \$1,032/year or \$86/month.

Motion (Johnson/Beeson): To deny Resolution No. R2010-10, Improvement District No. 69.

Kuiper displayed the following title:

Resolution R2010-10

A resolution of the City Council of the City of Yuma, Arizona, (1) declaring its intention to improve, and adopting Preliminary Plans and an Engineer's Estimate for the improvement of an area within the corporate limits of the City by the construction and acquisition of sewers for sanitary purposes for a district comprised generally of the lots fronting on Cheshire Drive, Brangus Avenue, Brahma Lane, 11th Place and 10th Place as shown on such Preliminary Plans; (2) designating such work as for "City of Yuma, Arizona Improvement District No. 69"; (3) determining that Improvement Bonds will be issued to represent the costs and expenses thereof; (4) declaring such work to be of more than a local or ordinary public benefit and that the costs thereof be assessed upon such district; (5) providing that the construction portion of such work be performed under the provisions of Title 48, Chapter 4, Article 2, Arizona Revised Statutes, and all amendments thereto and (6) fixing the time and place for hearing of all protests with respect to such improvements and objections to the extent of such district (Intent to form Improvement District No. 69) (Eng)

Roll call vote: **adopted** 7-0; resolution denied.

IV. ADOPTION OF ORDINANCES CONSENT AGENDA - none

V. INTRODUCTION OF ORDINANCES - none

VI. PUBLIC HEARINGS - none

VII. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

Motion (McClendon/Mendoza): To appoint Greg Wilkinson as the Interim City Administrator. Voice vote: **approved** 7-0.

Motion (Mayor Krieger/McClendon): To appoint Marshall Milner to the Public Safety Police Board for one term to expire 12/31/2013. Voice vote: **approved** 7-0.

Motion (Mayor Krieger/Mendoza): To appoint Marshall Milner to the Fire and Public Safety Board for one term to expire 12/31/2013. Voice vote: **approved** 7-0.

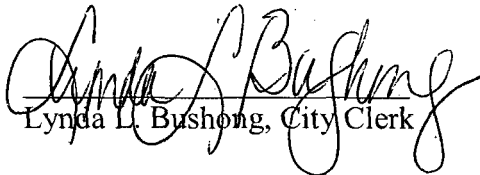
Motion (Mendoza/Johnson): To schedule a Special City Council meeting on Tuesday, March 23, 2010 at 3:00 p.m. in City Hall Conference Room 190, for the purpose of continued discussion and possible action on the City of Yuma budget. Voice vote: **approved** 7-0.

Motion (Johnson/Mendoza): To schedule all future Special Worksession/Roundtables, beginning April 6, 2010, for each Tuesday preceding a Wednesday Regular City Council meeting. The Special Worksession/Roundtables will be held at 3:00 p.m. in City Hall Conference Room 190. Voice vote: **approved** 7-0.

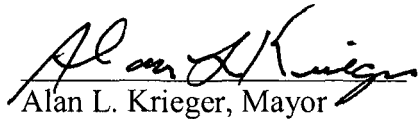
VIII. SUMMARY OF CURRENT EVENTS

IX. EXECUTIVE SESSION/ADJOURNMENT

Mayor Krieger adjourned the meeting at 7:14 p.m. No Executive Session was held.


Lynda L. Bushong, City Clerk

APPROVED:


Alan L. Krieger, Mayor

